

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
MINUTES  
OCTOBER 6, 2014

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on October 6, 2014, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Bunder, Burch, DeBoer, Dietrich, Hunt, Keen, and Thomas.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Parks Assistant Superintendent Ainsworth, Facilities Director Clark, Police Chief Dombkowski, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Director of Development Poole, and Assistant City Engineer Susong.

MINUTES

Councilor Keen moved for acceptance of the minutes of the August 28, 2014, Pre-Council Meeting, and the September 2, 2014, Common Council Meeting. Councilor Burch seconded the motion, and the motion passed by voice vote.

COMMITTEE STANDING REPORTS

STREET, SANITATION, AND WASTEWATER TREATMENT UTILITY

Councilor Bunder presented this report, which will be on file in the Clerk-Treasurer's Office. He stated that the WWTU has begun a project involving the Go Greener Commission and rain barrels. He requested that the Chair of the Go Greener Commission, Spencer Evans, speak about that project.

Spencer Evans (2400 Yeager Road) explained that the rain barrel initiative is focused on helping to solve erosion issues in the Happy Hollow neighborhood and if it is successful it may move beyond there.

Councilor Hunt stated that she and Street Commissioner Payne took a tour of the Sustainability Department facilities at Purdue and spoke with them about how we can work together to increase recycling on campus.

PUBLIC SAFETY AND ORDINANCE

Councilor Keen presented this report, which will be on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS

Councilor DeBoer reported on events at Purdue University.

PARKS AND RECREATION

Councilor Hunt presented this report, which will be on file in the Clerk-Treasurer's Office.

ECONOMIC DEVELOPMENT

Councilor Thomas presented this report, which will be on file in the Clerk-Treasurer's Office.

PERSONNEL

Councilor Burch presented this report, which will be on file in the Clerk-Treasurer's Office.

BUDGET AND FINANCE

There was no report.

REPORT OF APC REPRESENTATIVE

Councilor Keen reported that in the coming months the APC Ordinance Committee will discuss the overall rezone of the New Chauncey area.

SPECIAL REPORTS

City Attorney Burns stated that Kent Frandsen, the attorney who has represented the City in the Lutz Street fire matter is here to talk about the settlement of that case. He noted that the Council received an electronic copy of the settlement agreement.

Kent Frandsen (Parr Richey Obrebsky Frandsen & Patterson) stated that in January he was asked by City Attorney Burns to assist the City in representing its interest in pursuing civil violations of a City residential code against the owners and property manager at 111 Lutz Street. He explained that City Attorney Burns was too closely connected with some of the parties to the matter. He stated that he worked with City staff to investigate the matter from a code compliance standpoint. The investigation concluded that there was no connection between the fire itself and the code violations that we were pursuing but we wanted to wait until the State Fire Marshall completed his investigation to ensure that was correct. The State Fire Marshall determined that the cause of the fire was unknown. After that report was concluded, we contacted the property owners and manager with our intention to bring a civil enforcement proceeding against them for failure to obtain the necessary certificates and owner occupancy affidavit and comply with our paperwork requirements. Since then we have been negotiating with the attorney for the property owners and manager and have reached an agreement that has been filed with the City and approved by the City staff. Mr. Frandsen explained that the essence of the agreement is that the owners and property manager pay a fine of \$10,000 and enter into certain stipulations with regards to inspections of the property over the next three years and certain probationary terms. If paperwork is not timely filed, the City reserves the right suspend the residential permits for this property and two other properties maintained by the property manager. He stated that there was no admission of fault or wrongdoing as it relates to the cause of the fire, and the agreement states that. The City has received the \$10,000 check. He stated that he thinks that the City staff's desire was to send a message to the landlords of this community that these paperwork requirements are important and the City is serious about enforcing these deadlines. He stated that there had not been past violations so it was a compromise that was resolved and he believes it is a reasonable resolution for this situation.

Councilor Bunder stated that this is a particular concern of his because the property sits in the 2<sup>nd</sup> District, which he represents. He stated that he is pleased that the City has resolved the matter and that this particular rental corporation has been placed in a kind-of probationary status. He believes it is important that the City be seen as enforcing the paperwork. He stated that it brings the question of over-occupancy. He asked how the number of \$10,000 came to be and will the rental corporation seek any damages from the students who rented from them. In other cases the rental corporations have attempted to have the students pay for the fine.

Mr. Frandsen stated that he has no reason to think that they will pursue a claim against the students. The property owners and manager maintained through this matter that they were not aware of the over-occupancy. The code requires that they make a reasonable effort to verify

how many people are living there. He stated that the people who were living there admitted that they were doing so perhaps without telling the owner and property manager. He stated that as far as how the fine was determined, it was meetings with the City staff, resulting in our view of what would be a reasonable range. In negotiating with the property owner, we were able to get them to that point. Mr. Frandsen stated that he felt that if he could get them to the point where the City had said that they were willing to accept it and not fight further, spending more money to pursue legal action, and there is no guarantee that the judge would have found a violation or that the judge's fine would have been as much as the agreement called for. He stated that it could have been more but it certainly could have been less.

Clerk-Treasurer Rhodes asked City Attorney Burns if this settlement agreement would have any relevance or impact upon the tort claim that has been filed.

City Attorney Burns responded that they are unrelated by the terms of the settlement agreement, as he reads it. They are completely separate issues.

#### PUBLIC RELATIONS:

##### a. Beautification Award

Mayor Dennis stated that he will be presenting the Beautification Award himself because the recipients are like a second set of parents. He presented the award to Mary Jo and Dick Schwartz and he described their gardens at 1210 Tuckaho Lane.

Mr. Schwartz expressed his thanks. He gave particular thanks to Councilor Hunt for her efforts and to the people of the City who recognize these kinds of things and encourage people to make this a nicer City to live in.

##### b. Council Appointment: Housing Appeals Board – Leeza Kolesnikov

Councilor DeBoer explained that a replacement is needed for his old seat on the Housing Appeals Board. He nominated Leeza Kolesnikov to be appointed to the Housing Appeals board. Councilor Burch seconded the nomination, and the motion passed by voice vote.

#### FINANCIAL REPORT

Clerk-Treasurer Rhodes reported that the County Council passed a nonbinding resolution on September 29 approving the West Lafayette City budget. We will be moving to the next step, Ordinance No. 25-14 very shortly.

#### LEGAL REPORT

City Attorney Burns stated that this report is on file.

#### UNFINISHED BUSINESS:

Ordinance No. 25-14 An Ordinance Setting The 2015 City Budget And Setting The 2015 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 25-14 by title only.

Councilor Keen moved for passage of Ordinance No. 25-14 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

COMMON COUNCIL MEETING MINUTES, October 6, 2014, CONTINUED

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 25-14 passed on second and final reading.

Ordinance No. 26-14 An Ordinance Concerning The Current Refunding By The City Of West Lafayette, Indiana, Of Its Sewage Works Revenue Bonds Of 2004, Series A; Authorizing The Issuance Of Sewage Works Refunding Revenue Bonds For Such Purpose; Providing For The Collection, Segregation And Distribution Of The Revenues Of The Sewage Works And The Safeguarding Of The Interests Of The Owners Of Said Sewage Works Refunding Revenue Bonds; Other Matters Connected Therewith; And Repealing Ordinances Inconsistent Herewith (Sponsored by Mayor John Dennis)

Mayor Dennis read Ordinance No. 26-14 by title only.

Councilor Keen moved for passage of Ordinance No. 26-14 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis stated that the Council has an understanding that this is like a refinancing.

Clerk-Treasurer Rhodes stated that we are expecting to move ahead in another week to have a placement agreement and be ready to refund and establish an escrow in advance of the end of the year so that we can do the entire transaction and refund these bonds. The interest rates still look very favorable.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 26-14 passed on second and final reading.

NEW BUSINESS:

Ordinance No. 28-14 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #83 Planned Developments) (Submitted by the Area Plan Commission)

Mayor Dennis read Ordinance No. 28-14 by title only.

Councilor Keen moved for passage of Ordinance No. 28-14 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Sallie Fahey, Executive Director, Area Plan Commission, stated that it has been 16 years since we have had this particular planned development (PD) ordinance. Over the 16 years, we have had comments and ideas from administrative officers, like Public Works Director Buck and Director of Development Poole, also from the County, the public, and the development community. In summary, this represents an effort to incorporate those ideas and in some ways modernize the ordinance. She stated that it would also take into account the way we evolved doing things and evolved negotiations for PDs and get them codified. It is in large part a clean-up. She described the details of some of the changes.

Councilor Hunt asked if the Council would still receive the APC recommendations and go through the process.

APC Executive Director Fahey responded that that part of the process would not change at all.

Councilor Hunt stated that there have been comments about how expensive it is to do a PD due to legal and other fees. She asked if that would change.

APC Executive Director Fahey responded that it will not. She explained that less than one year ago the APC increased the filing fees specifically because the previous fees did not come anywhere near, nor do they still, covering staff costs to review and work with developers on PDs and other cases. She explained that over the process of a PD versus the process of a rezoning and then a subdivision, the costs are similar; however, in a PD the costs are shifted primarily to the front of the project.

Councilor Burch asked if this ordinance effects any PD that is currently in process and what the effective date would be.

APC Executive Director Fahey responded that anything officially filed will follow the old process. The effective date for West Lafayette would be tonight.

Councilor Dietrich asked if West Lafayette is the most PD-centric, and APC Executive Director Fahey responded that it is. Councilor Dietrich asked if that is because we lack something in ordinance or direction.

APC Executive Director Fahey responded that, as the City's Chief Planner, she would say that there are some parts of the City where ordinances and zoning could be updated. The APC worked once with the City on the northwest corridor and the City was not yet comfortable with those ideas. She would like to revisit those ideas because she thinks that as-of-right development probably makes sense, rather than forcing someone through the PD process. She stated that on the other hand, the City's preference for the PD process has given the City some extraordinarily innovative projects that would not be there otherwise.

Mayor Dennis asked if some of that is due to the City's density because so much has to be shoehorned in.

APC Executive Director Fahey responded yes, the City is not growing any more land in the most urban part of the City. She stated that she also thinks that West Lafayette is ripe in this part of the City for some densification anyway, such as the 720 Northwestern building and Wang Hall. She feels that those are appropriate densities and heights for increasing the urban look of the near-campus area.

Zachary Baiel (124 Connolly Street) stated that he is excited that a more electronic submission process is going to be included in this and hopes it is a signal of timely updated posts and increased transparency. He spoke about some concerns he had about the ordinance.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 28-14 passed on first and only reading.

Ordinance No. 29-14 An Ordinance To Fix The Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2015 (Submitted by Mayor John Dennis)

Mayor Dennis read Ordinance No. 29-14 by title only.

Councilor Keen moved for passage of Ordinance No. 29-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 29-14 passed on first reading.

Ordinance No. 30-14 An Ordinance To Fix The 2015 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety)

Mayor Dennis read Ordinance No. 30-14 by title only.

Councilor Keen moved for passage of Ordinance No. 30-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes stated that she will be requesting an amendment to this ordinance because of a scrivener's error in which the salary of the Utility Director was not entered correctly.

Councilor Keen moved to amend Ordinance No. 30-14 by substitution as requested by Clerk-Treasurer Rhodes. Councilor Burch seconded the motion.

In response to a question from Councilor Thomas, Clerk-Treasurer Rhodes stated that the amendment has been loaded to the agenda website and it related to the minimum and maximum for the Utility Director, which is the first position on the front page of the ordinance. She explained that all of the Department Head ranges were adjusted this year to make them uniform and this one inadvertently did not get the proper adjustment. She stated that this ordinance will be going to the Board of Works for approval prior to the second reading. She noted that we must take action on the salary ordinances at the November 3 meeting as that is the deadline for the adoption of salary ordinances.

The motion passed by voice vote.

Mayor Dennis read Ordinance No. 30-14 (Amended) by title only.

Councilor Keen moved for passage of Ordinance No. 30-14 (Amended) on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 30-14 (Amended) passed on first reading.

Ordinance No. 31-14 An Ordinance To Set The Salaries Of The Elected Officials, City Of West Lafayette, Indiana, For The Year 2015 (Presented by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 31-14 by title only.

Councilor Keen moved for passage of Ordinance No. 31-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mr. Baiel asked if there could be a column of percentage change added to the salary sheets. He asked if there could be discussion about the change to the Clerk-Treasurer's salary.

Clerk-Treasurer Rhodes noted that she was about comment on that. She explained that there are a couple of changes to the salary ordinance this year. The Mayor's range has been increased by 2%. The Clerk-Treasurer's salary has been adjusted to make it the same as the other department head salaries. The City Judge salary has not increased at the request of the Judge because of the reduction in the workload of the City Court. The Councilor salary has been increased by 2% in line with the general City raise.

Councilor Hunt commented that for many years the Council did not get a raise. A study was done last year comparing salaries with other Class 3 cities and found that we were way below the median. We changed it so that the Councilors get a similar raise as the other City employees.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 31-14 passed on first reading.

Ordinance No. 32-14 An Ordinance To Provide Redistricting In Compliance With Indiana Code § 36-4-6-3, And To Give Effect To West Lafayette's Change From A Third Class City To A Second Class City As Authorized By West Lafayette Ordinance No. 17-14 And To Amend West Lafayette Ordinance No. 17-14 By Insertion (Sponsored by Mayor John Dennis)

Mayor Dennis read Ordinance No. 32-14 by title only.

Councilor Keen moved for passage of Ordinance No. 32-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Burch asked if the ordinance could show the final district numbers.

City Attorney Burns stated that it can be amended anytime and his suggestion is to take the map that is currently attached, dated September 25, and replace it with the map marked as final and dated October 6, 2014, plus the census blocks that are also included on the agenda. The census blocks are pages 1 through 12 and serves as the actual legal description of the map. The map is the pictorial depiction. The census blocks are the written description that comprise the map. He requested that the Council consider an amendment by insertion to take those two documents and replace it for the September 25 map.

Councilor Keen moved to amend Ordinance No. 32-14 as described by City Attorney Burns. Councilor Burch seconded the motion, and the motion passed by voice vote.

Mayor Dennis read Ordinance No. 32-14 as amended by title only.

Councilor Keen moved for passage of Ordinance No. 32-14 (Amended) on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor DeBoer stated that through this process we have learned a lot about what our City is going to look like. He explained that he put a lot of emphasis into figuring out how to incorporate the student residents into the district, now labeled District 3. He stated that central to his thinking in how it was drawn was that he felt it needed to be as close to parity as possible with the numbers with the rest of the districts, which was difficult due to the density of the students in the areas. He also felt that private residences needed to be included so that someone elected from that district could live there following graduation.

Mayor Dennis stated that Councilors DeBoer and Dietrich did an amazing job of crafting, with the understanding of making sure that things were fairly equitable. He noted that the process is complicated with a lot of rules.

Councilor Hunt stated that it was nice to see a bi-partisan effect, and she thanked Councilors Dietrich and DeBoer and the APC.

Clerk-Treasurer Rhodes noted that the City of West Lafayette came into being over 90 years ago, in 1924. Now we are getting ready to be young all over again and become a City of the Second Class. She stated that it is an exciting time for the City, and may the next 90 years be as wonderful for all of the residents of the City as it has been so far.

Mr. Baiel expressed his support for the map. He asked if an APC summary sheet with breakdowns of the numbers would be provided before the second vote. He asked what percentage of student residencies were absorbed into each district. He questioned District 3 only having six owner-occupied houses. He requested that if there is any open-GIS standards with the census block information that it be uploaded to the website.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			

COMMON COUNCIL MEETING MINUTES, October 6, 2014, CONTINUED

	AYE	NAY	ABSENT	ABSTAIN
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 32-14 (Amended) passed on first reading.

Clerk-Treasurer Rhodes asked City Attorney Burns to explain the next steps.

City Attorney Burns responded that there will need to be a special meeting. Once passed, then there is a process that the County Clerk goes through to make sure all of the voting demographics are in order and then it will go to the State.

The Council members discussed meeting dates for the special meeting and decided to hold it on October 13 at 6:30 p.m.

Councilor Hunt asked Mayor Dennis to explain for the audience the changes in who chairs the Council and Board of Works meeting.

Mayor Dennis stated that it will not be him. The Council meeting will be chaired by the Council President, and the Board of Works will be chaired by the Board President. Each of those positions will be elected by the bodies. He confirmed for Councilor Hunt that it will start in January 2016.

Councilor Dietrich asked if the salary ordinances should be addressed at the special meeting.

Clerk-Treasurer Rhodes stated that the Council could take them up at the special meeting or wait until the November 3.

The Council members discussed it and decided to address the salary ordinances at the special meeting.

Clerk-Treasurer Rhodes asked the Council members to sign Form 4 for the budget before leaving.

#### COMMUNICATIONS

► Mayor Dennis stated that it has been brought to his attention that the intersection of Cumberland Avenue and US 231 is relatively unsafe and there is a dire need for an electronic signal there. He reported that he has been contacted by INDOT and they have given the green light to put a light there.

Councilor Thomas stated that it is good to hear as he lost a good friend in an accident there.

► Councilor Bunder invited everyone to join the Human Relations Commission on October 14 for an evening of information gathering, sharing, and questioning. The Commission would like to update and educate citizens about the ordinance that has been on our books since the 1960s

civil rights era. There have been updates and changes over the years and we strive to be current in the ways we live and share in this diverse and multi-cultural City we love to call home.

► Councilor Dietrich asked about the current status of the railroad funds that we offered.

Mayor Dennis responded that Amtrak visited town last week. He stated that Commissioner Murtaugh attended the event and reported that Amtrak had a new car they were looking to use on the Hoosier State route which was equipped with Wi-Fi and other amenities. INDOT was not at that meeting so there was not conversation about the service. The understanding now is that Amtrak is serious about trying to retain that route but there are still details to be worked out. Mayor Dennis stated that our financial committal will end in January 2015.

#### CITIZEN COMMENTS

► Mr. Baiel asked if the Lutz Street settlement is posted online for the public to access.

Clerk-Treasurer Rhodes stated that it can be posted after it is signed but she has printed copies available tonight.

Mr. Baiel also discussed several other topics, including reporting that there is a new little free library on Rose Street, his enjoyment of the Tiny Place public art project, he is glad to hear about the new light at Cumberland Avenue and US 231, he expressed his thanks for the efforts on the banana statute, and he spoke about where longboarders should be able to use their alternate mode of transportation.

► Mary Cook (Harry's Chocolate Shop, 329 West State Street, owner) stated that, following the discussion at last month's Council meeting about landlords and the City, she believes that the City has the finest services and that the people serving the citizens work above and beyond the call of duty. She noted that a majority of the transient population comes to us at age 18 and they are handed to us to help them grow up. The people behind the scenes, who support this City, do not get the recognition that they deserve. This community works hard to welcome to welcome a lot of people through here. She stated that she appreciates how this City runs from a business side and a citizen side.

Councilor Keen expressed his appreciation, saying that it is people such as Ms. Cook that makes that happen with their businesses and contributions to the City.

► Councilor Hunt stated that Purdue retirees have a monthly luncheon and the topic today was Sergeant Jonathan Eager speaking about illegal drugs in Indiana. She stated that it was very informative. She reported that the groundbreaking for the Joyful Journey adult daycare is on October 14.

#### ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting the time being 7:48 p.m.